IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2823 OF 2005

M/s.The Shirt Company (India) Pvt.Ltd. & Another .. Petitioners.

V/s.

Union of India & Others .. Respondents.

Mr.Mohan Jaykar i/b. M/s. Khaitan & Jaykar for the petitioners.

Mr.A.S. Rao with Mr.Y.S. Bhate for respondent No.1,3 and 4.

Mr.R.C. Dalal for respondent No.2.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 16TH DECEMBER, 2005.

P.C. :

1. Heard Mr.Jaykar in support of this petition. Mr.Rao appears for respondent Nos.1,3 and 4 and Mr.Dalal appears for respondent No.2.

2. The question raised in this matter is as to whether under the impugned order, the submission of the petitioners have been correctly considered and decided.

3. The case of the petitioners is that the petitioners had exported more than 90% of their export obligation and that the determination should

be done after clubbing their export performance together in all systems. Mr.Jaykar, learned counsel for the petitioners has submitted that the impugned order does not reflect the determination of the documents which were tendered by the petitioners.

4. In as much as this is the only question to be examined, we are of the view that it will be better that the Second Appellate Committee looks into the question once again. Mr.Dalal has taken instructions from the Officer of the second respondent and has stated that he has no objection if such a course is adopted.

5. In the circumstances, we issue rule and make it returnable forthwith.

6. For the reasons stated above, we quash and set aside the order passed by the Second Appellate Committee dated 12th September, 2005 and restore the second appeal to the file of the Second Appellate Committee, where the petitioners will be permitted to tender their documents and the committee will be expected to decide as to whether the petitioners had fulfilled the export obligation of more than 90%. That will be after considering whether the clubbing as submitted was permissible under the rules and on

facts.

7. We expect the Committee to decide the matter within two months from the date of receipt of the copy of this order. The petitioners will, of course, co-operate with the Committee in earlier determination of the matter.

8. The bank guarantee given by the petitioners in favour of the Export Promotion Council will continue during this determination which is now revived.

9. Rule is made absolute as above with no order as to costs.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)